HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.538 OF 2006

PETITIONERS

1. Rakesh Agrawal, aged about 46 years, son of Shri Balram Agrawal, resident of Agrasen Marg, Korba, Distt. Korba (C.G.)

2. Gopal Agrawl, aged about 49 years, son of Late Banwarilal Agrawal, resident of Agrasen Marg, Korba, Distt. Korba (C.G.)

3. Vikas Agrawal, aged about 27 years, son of Shri Jaiprakash Agrawal, resident of Agrasen Marg, Korba, Distt. Korba (C.G.)

4. Sanjay Agrawal, aged about 30 years, son of Shri Jaiprakash Agrawal, resident of Agrasen Marg, Korba, Distt. Korba (C.G.)

VERSUS

RESPONDENTS

1. The South Eastern Coalfields Limited, through – Its Regional Sales Manager, Korba Area, Tahsil and Distt. Korba (C.G.)

2 Regional Sales Manager, SECL Gevra Area, Tahsil and Distt. Korba (C.G.)

3. Regional Sales Manager, SECL Dipika Area, Tahsil and Distt. Korba (C.G.)

4. State of Chhattisgarh, through Its Secretary, Deptt. of Transport, D.K.S. Bhawan Mantralay, Raipur (C.G.)

5. Tata Engineering and Locomotives Company (Telco) through – Its Regional Sales Officer, Telco Office-Raipur, Tahsil and Distt. Raipur (C.G.)

Present: Shri N.L. Soni, learned counsel for the petitioners.
Shri Praveen Das, learned counsel for the respondents/ S.E.C.L.
Shri N.K. Agrawal, learned Dy. A.G. with Shri Yashwant Singh, learned Govt. Advocate for the State.

269

ORAL ORDER
(Passed on 24th July, 2006)

Four operators of goods transport motor vehicles have filed this writ petition complaining that the South Eastern Coalfields Limited (for short "the SECL") authorities do not permit their vehicles to carry maximum weight as per the gross vehicle weight mentioned by the registering authority in the concerned registration certificate. In the premise of that complaint, a direction is sought to the authorities of the S.E.C.L. to permit the petitioners' vehicles to carry maximum weight as per the gross vehicle weight mentioned in the registration certificates. The above complaint of the petitioner is related to 16 vehicles details of which have been given in a table marked as Annexure P/1 produced at page 9 of the material papers. Although, the relief is sought in this writ petition with regard to all the 16 motor vehicles mentioned in the table (Annexure P/1), Shri N.L. Soni, learned counsel appearing for the petitioner having regard to the materials placed by the respondents-State authorities and position in law would submit that the grievance of the petitioners with regard to the motor vehicles mentioned in Sl. No. 8 to 12 (both inclusive) is not justified and he would not press writ petition with regard to those five vehicles.

(2) I heard learned counsel for the parties. It was contended by Shri Soni that the registering authority having applied its mind to the categories of motor vehicles involved in the case and also taking into account the maximum gross vehicle weight specified by the Central Government in its Notification issued under Section 58 of the Motor Vehicles Act, 1988 has correctly mentioned maximum gross vehicle weight mentioned in the certificate of the registration and, therefore, the

S.E.C.L. authorities are legally bound to permit the petitioners' vehicle to carry maximum weight as specified in the certificates of registration, and that the refusal of the S.E.C.L. authorities to do so should be condemned as arbitrary and unreasonable. Learned Deputy Advocate General, Shri N.K. Agrawal, appearing for the State authorities, *per contra*, drawing the attention of the Court the return and additional return filed by them and the documents Annexed thereto would submit that out of 16 motor vehicles involved in the case, 5 vehicles would fall under category II (i) of Semi Articulated Vehicles, whereas the remaining 11 vehicles would fall under the category II(iii) of Semi Articulated Vehicles and in that view of the matter the permissible maximum gross vehicle weight in the case of the vehicles covered by category II(i) is only 26.4 tonnes and in the case of the vehicles covered by the category II (iii) is only 40.2 tonnes. He would point out that the registering authority quite curiously mentioned the maximum gross vehicle weight at 30.75 tonnes and 44 tonnes respectively. In reply, Shri Soni would contend that the category II deals with Semi Articulated vehicles like tractors and not the truck trailer combinations. According to him, the 11 vehicles with regard to which he does not agree with the stand of the Government authorities would fall under the category (iii). Countering the above assertion of Shri Soni, learned Deputy Advocate General would draw the attention of the Court to several photographs of trucks in question to show that the trucks-trailers have 18 tyres together and therefore, they undeniably fall under the category (ii) which deals with semi Articulated Vehicles.

(3) The S.E.C.L. itself is a State within the meaning of Article 12 of the Constitution of India. Not only the State, but, every citizen and

person is expected to comply with and or aid enforcement of public law obligations. It is not that the regardless of the fact whether the maximum gross vehicle weight shown by the registering authority in the certificate of the registration reflects correctly maximum gross vehicle weight specified by the Central Government in the Notification issued by it under Section 58 (1) of the Motor Vehicle Act, 1988, the S.E.C.L. blindly and in violation of the statutory mandate should permit the vehicles of the petitioners to carry the weight in excess of the maximum gross vehicle weight specified by the Central Government. As already pointed out, the State has filed its return as for back as on 27-03-2006 after serving a copy of the same on the petitioner. Till date, no rejoinder is filed by the petitioners to contest the correctness of any of the averments made in the return. In paras 2 and 5 of the return, necessary details are set out to support the stand taken by the State Government. I have perused the photographs annexed to the return marked as Annexure R/4 II series Semi Articulated Vehicles, even to naked eye, would show that they have 18 tyres. It is not denied before me by Shri Soni that if 16 vehicles (5 and 11 vehicles) if fall under the category of II (i) and II (iii), the permissible maximum gross vehicle weight could not more than 26.4 tonnes and 40.2 tonnes, respectively. If this is the admitted position, the material placed before the Court would clinchingly show that the registering authorities in violation of the mandatory specification made by the Central Government in its Notification issued under Section 58 (1) of the Motor Vehicle Act, 1988 has mentioned excess weights. I have had occasion to deal with the public mischief and/ injury caused by allowing excess weight in the vehicles in my order dated 06-07-2006 passed in W.P. No. 944 of 2006 and the batch. The

same observations would justify in this case also. In the circumstances, the writ petition is dismissed. No costs.

Sd/-
Chief Justice

Karate